

## REMARKS

The Action rejects claim 1 as being anticipated by Abrams. The Action in assessing the scope of the claims anticipated by Abrams does not give weight to the portion of the apparatus as defined by the control unit. The Action rather merely considers the control unit limitations an intended use for which any control unit will satisfy.

Applicant on June 16, 2005 conducted a telephone interview with the Examiner regarding the appropriateness of giving weight to the control unit limitations. After discussion, the Examiner agreed that the Office would give weight to these limitations. Giving weight to these limitations is proper in that the sort of control unit limitations are considered as part of the apparatus. For instance, the court in *International Game Tech* held:

The structure of a microprocessor programmed to carry out an algorithm is limited by the disclosed algorithm. A general purpose computer, or microprocessor, programmed to carry out an algorithm creates "a new machine, because a general purpose computer in effect becomes a special purpose computer once it is programmed to perform particular functions pursuant to instructions from program software." **If a machine is programmed in a certain new and unobvious way, it is physically different from the machine without that program; its memory elements are differently arranged.**" The instructions of the software program that carry out the algorithm electrically change the general purpose computer by creating electrical paths within the device. These electrical paths create a special purpose machine for carrying out the particular algorithm. *WMS Gaming Inc. v. International Game Tech.*, 184 F.3d 1339, 1348 (Fed. Cir., 1999)

See also *Sage Products, Inc. v. Devon Industries, Inc.* 126 F3rd 1420, 1427-28, 44 USPQ 2nd, 1103, 1109 (Fed. Cir. 1997) See also, *MED Instrumentation and Diagnostics Corp. v. Electra AB*, 344 F3rd 1205, 1217 (Fed.Cir. 2003).

Given that applicant's control unit limitations should be given weight, these limitations recited in claim 1 are clearly not anticipated by Abrams. Abrams, as noted in the Action, does not state that its control unit is configured and interfaced to "control said drive of said processing unit to intermittently operate for said cycle time Tt, control said electric motor and said metering motor so as to trigger their operation in accordance with the cycle time Tt and only trigger the operation of the electric motor and metering motor when a melt strand is ready to be extruded to the processing unit, and wherein said metering motor and electric motor have identical run-up

and deceleration times." None of the other references are cited as disclosing or making obvious this feature. Indeed, none of the other references disclose or make obvious this feature.

As claim 1 is now allowable over the cited references, the remaining claims, which depend from claim 1, are also now allowable.

**Substance of Examiner's Interview**

The substance of the Examiner's interview is as stated above and in the Examiner's Summary mailed 06/22/05.

**Good Cause for Considering the Remarks After Final**

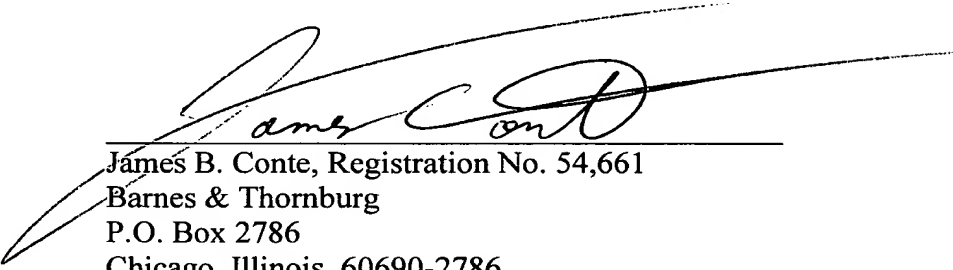
Applicant did not earlier present the remarks after final in that Applicant did not understand that its limitations concerning the control unit would be only given consideration as an intended use. The intended use argument was first presented to Applicant in the final action mailed April 6, 2005.

**Conclusion**

Applicant has explained the allowability of each of the claims. The Final Action should be withdrawn and a Notice of Allowance issued.

July 6, 2005

Respectfully submitted,



James B. Conte, Registration No. 54,661  
Barnes & Thornburg  
P.O. Box 2786  
Chicago, Illinois 60690-2786  
(312) 357-1313